

IN THE CHANCERY COURT OF LEWIS COUNTY  
AT HOHENWALD, TENNESSEE

In Re: Sentinel Trust Company

)  
)  
) Case No. 4781  
)

**FILED** 3:43 PM  
AM AUG 16 2004

JANET WILLIAMS, CLERK & MASTER  
BY: Selena W. W. D.C.

**MOTION TO ENTER INTO REIMBURSEMENT AGREEMENT AND TO MODIFY  
SALE TERMS**

Receivership Management, Inc., as Receiver of Sentinel Trust Company ("RMI"), moves the Court for authority to enter into a reimbursement agreement with Renaissance Hospitals, Inc., and to modify certain terms of an Asset Purchase Agreement as more fully described below. On May 18, 2004, Honorable Kevin Lavender, Commissioner of the Tennessee Department of Financial Institutions, took possession of Sentinel Trust Company ("Sentinel") and appointed RMI as receiver for Sentinel's estate, all pursuant to T.C.A. § 45-2-1502. Notice of that action was filed with this Court on that date. On June 18, 2004, Commissioner-in-Possession Lavender gave notice of placing Sentinel Trust Company into liquidation, said notice also being filed with this Court on that date.

T.C.A. § 45-2-1504(a)(1) provides that while Sentinel is in liquidation, an estate asset of over \$500 can be sold only upon approval of the court in which the Notice of Possession had been filed. Through this motion, RMI seeks authority to enter into an agreement with Renaissance, whereby a portion of the proceeds from the sale of the Project that secures the Bond Issue referenced below will be allocated for the payment of certain specified obligations of the Borrower. (The Project, the Bond Issue, and the Borrower are all defined below.)

In support of this Motion, RMI states as follows:

## **A. Background**

1. At the time the Commissioner took possession of Sentinel, Sentinel was the indenture trustee for those certain revenue bonds, Series 1991, in the original face amount of \$20,215,000, and those certain subordinate revenue bonds, Series 1991, in the original face amount of \$9,530,000, issued by Tarrant County Health Facilities Development Corporation, a Texas nonprofit public corporation (the "Issuer"), on or about April 1, 1991 (the "Bond Issue" or "Bonds").

2. The Bonds are secured by that certain osteopathic hospital facility, including land, buildings, and related equipment, located at 5500 39th Street, Groves, Jefferson County, Texas and known as "Doctors Hospital" (the "Project"). The Project is owned by Community Healthcare Foundation, Inc., d/b/a Doctors Hospital (the "Borrower").

3. The Borrower defaulted on the Bonds, and on November 14, 2003, filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Texas, Beaumont Division (the "Bankruptcy Court"), Case No. 03-11710 (the "Bankruptcy Case").

4. As of the filing of the Bankruptcy Case, the aggregate principal amount owed on the Bonds was no less than \$29,740,000 (principal amount of Senior Bonds: \$20,215,000; and principal amount of Subordinated Bonds: \$9,530,000). No payment has been made since the filing of the Bankruptcy Case.

5. Following the filing of the Bankruptcy Case, all parties agreed that absent an immediate sale of the Project to an entity ready, willing, and able to infuse the working capital necessary to stabilize the Borrower's operations, the Borrower would be unable to meet the Project's payroll and other operating expenses beyond February 2004, and would be forced to

shut the Hospital's doors as early as March 2004; and if that occurred, the value of the Hospital would decline dramatically, and the Borrower, its creditors, patients, employees, and doctors would be prejudiced.

6. The Borrower identified a purchaser, Renaissance Hospitals, Inc., a Texas corporation (the "Purchaser" or "Renaissance"), and negotiated a sale (the "Sale") of the Borrower's Assets for their going-concern value. The Borrower and Purchaser executed an Asset Purchase Agreement (the "Purchase Agreement") to sell the Project and other assets to the Purchaser on terms and conditions contained in the Purchase Agreement and Sale Procedures Order for the "Purchase Price" (as defined below), subject to higher and better offers and approval of the Bankruptcy Court pursuant to 11 U.S.C. § 363(b) and (f) and Federal Rules of Bankruptcy Procedure 6004 and 9014. Sentinel consented to the Sale.

7. On January 28, 2004, the Borrower conducted the Sale in Beaumont, Texas in accordance with the Sale Procedures Order. The Purchase Agreement constituted the initial "Qualified Bid" (as defined in the Sale Procedures Order) for the assets and no party, other than the Purchaser, submitted a bid or otherwise attempted to qualify as a "Qualified Bidder" (as defined in the Sale Procedures Order). Upon conclusion of the Sale, the Borrower determined that the Purchase Agreement was the Successful Bid, as it provided the highest and best net economic benefit to the estate and was in the best interest of the Borrower, its creditors, and the estate. The Bankruptcy Court approved the Sale on January 29, 2004, and entered the Sale Order that same day. An amendment to the Sale Order was entered on April 26, 2004, reallocating part of the Purchase Price to a Medical Office Building (the "MOB"), which is separate from the Project and is not part of the collateral securing the Bonds.

8. The Purchase Price under the Purchase Agreement and Sale Order, as amended, is as follows:

- (a) \$ 3,020,000 in cash for the Hospital (the "Cash Purchase Price");
- (b) \$ 180,000 in cash for the MOB (the "MOB Purchase Price");
- (c) \$ 200,000 in cash to the Borrower's bankruptcy estate for payment of the administrative expenses in the Bankruptcy Case (the "Administrative Expense Payment"); and
- (d) the assumption of certain specified liabilities.

9. Sentinel, through RMI, only has an interest in the Cash Purchase Price (i.e., \$3,020,000) (although the Sentinel estate could, in theory, recover a de minimus amount from a distribution to unsecured creditors in the Bankruptcy Case, if there is any amount left following the payment of administrative creditors). However, under the Sale Order, as amended, at the closing of the Sale, \$900,000 of the Cash Purchase Price will be retained in escrow pending the outcome of certain litigation between the Borrower, Sentinel, and Tri-Health Services, Inc., the former receiver and manager of the Project ("Tri-Health"), regarding whether Tri-Health has a prior lien in those funds for unpaid management fees and expenses it asserts are owed. That litigation is still pending in the Bankruptcy Case.

10. Under the Purchase Agreement, the Buyer's obligation to close on the Sale is conditioned on the satisfaction of certain conditions, including the condition that Buyer shall receive evidence reasonably satisfactory to Buyer that all appropriate governmental authorities have issued to Buyer new provider numbers for Medicare and Medicaid for use by the Hospital, and that the Texas Department of Health has granted Buyer a license to operate the Hospital.

11. Following entry of the Sale Order, as amended, Buyer attempted to obtain new provider numbers for Medicare and Medicaid reimbursements for the Project. However, the

Center for Medicare and Medicaid Services ("CMS"), a division of the United States Department of Health and Human Services that administers the Medicare and Medicaid programs, refused to issue such new numbers. Instead, CMS required the Buyer to assume the Borrower's existing provider numbers, as well as the overpayment liability attached to those numbers in the approximate amount of \$2,824,748.

12. Renaissance's assumption of the Borrower's provider numbers and attendant liability was not contemplated by the parties under the Purchase Agreement. In fact, it was expressly agreed that Renaissance would not assume those liabilities. Renaissance's inability to obtain new provider numbers without having to assume the Borrower's liability is a basis for Renaissance to terminate the Purchase Agreement. Nevertheless, the Buyer has entered into negotiations with CMS in an effort to reduce the liability. As a result of those negotiations, CMS has agreed to reduce the overpayment liability to \$500,000, if Buyer will agree to assume the Borrower's existing provider agreements and pay the \$500,000.

#### **B. Relief Requested**

13. Buyer has advised RMI that it cannot and will not assume the Borrower's provider numbers and, therefore, will not close on the Sale, unless RMI agrees that \$500,000 of the Cash Purchase Price otherwise payable at closing to RMI, as receiver for Sentinel, can be used to pay CMS. It is RMI's belief and understanding that, under the terms of the Purchase Agreement and the current circumstances, the Buyer is not obligated to close on the Sale. Accordingly, the Buyer could decide to terminate the Purchase Agreement without being in breach. It is RMI's further belief, based on information available to RMI, including monthly operating reports filed in the Borrower's bankruptcy case, an appraisal of the Project that Sentinel had obtained in April 2003, a review of the record in the Bankruptcy Case, and certain other

information about the Project that has been provided, that Renaissance is the only party who has shown an interest in purchasing the Project who has a realistic ability to close. Finally, and most significantly, it is RMI's belief, based on the same information, that if Renaissance decides not to close the Sale of the Project, the Borrower will not be able to keep operating the Project and will close its doors. If that occurs, RMI does not believe the Project will have nearly as much value as it does under the Purchase Agreement, even if \$500,000 of the Cash Purchase Price is used to pay CMS. Therefore, RMI believes it is in the best interests of the creditors of Sentinel and other parties in interest herein, for RMI to agree with Renaissance to reallocate \$500,000 of the Cash Purchase Price from RMI to payment of CMS, if Renaissance will close on the Sale for the Purchase Price.

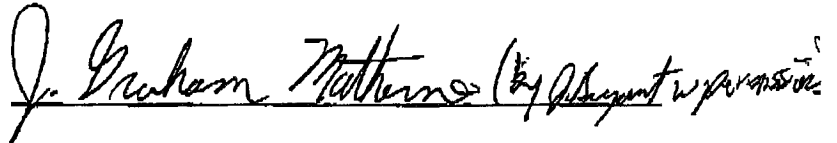
14. Attached hereto as Exhibit A is a draft of the "Reimbursement Agreement" being proposed by Renaissance. The parties are still negotiating the exact language of the Reimbursement Agreement and will have it finalized by the hearing on this Motion. In the meantime, RMI hereby requests this Court's authority to enter into a Reimbursement Agreement with Renaissance in form and substance substantially similar to the form of Reimbursement Agreement attached hereto as Exhibit A.

15. If the Sale closes for the Purchase Price, with \$500,000 of the Cash Purchase Price reallocated as provided above, then at closing RMI will receive for the benefit of the Sentinel estate the amount of \$1,620,000. RMI believes this amount exceeds significantly the amount it could recover for the Project if the Sale to Renaissance does not close. In addition, RMI will continue to pursue the litigation with Tri-Health regarding the \$900,000 that will be held in escrow pending resolution of whether Tri-Health has a first-priority lien on any or all of

those funds. Thus, it is possible that the final net recovery to the Sentinel estate from the sale of the Project will exceed \$1,620,000, once the Tri-Health litigation has concluded.

WHEREFORE, RMI hereby requests this Court to enter an order authorizing RMI to enter into an appropriate reimbursement agreement with Renaissance to reallocate \$500,000 of the Cash Purchase Price to CMS, as described above. RMI further prays for such other relief as this Court deems just and proper.

Respectfully submitted,

A handwritten signature in cursive script, reading "J. Graham Matherne". To the right of the signature, there is a handwritten note in parentheses: "(By Agent representative)".

J. Graham Matherne  
Wyatt, Tarrant & Combs  
2525 West End Avenue, Suite 1500  
Nashville, TN 37203-1423  
(615) 244-0020

Counsel for Jeanne Barnes Bryant and  
Receivership Management, Inc.  
Receiver of Sentinel Trust Company

**THIS MOTION WILL BE HEARD ON MONDAY, AUGUST 23, 2004, AT  
9:00 A.M., IN HOHENWALD, LEWIS COUNTY, TENNESSEE.**